IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 3994 of 2005

Between:

M/s. Sai Polymers 118, D.Block, IDA, Autonagar
Gajuwaka, Visakhapatnam, rep by its Managing Partner Mr.r.Rama Raju.

..... PETITIONER

AND

1 The Commercial Tax Officer, Gajuwaka Circle, Visakhapatnam.
2 The Commissioner of Industries, Government of Andhra Pradesh, Chirag Ali Lane, Abids, Hyderabad.
3 The General Manager, District Industries Centre,
Industrial Estate, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in issuing the impugned demand notice dated 16.2.2005 as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and contrary to the provisions of the Act and against the incentive scheme ie., Target 2000 and set aside the same and declare that the petitioner is

entitled to avail the entire sales tax incentive granted in the final eligibility certificate dt.30.11.2000 till the limit fixed in the certificate is exhausted.

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondent No.1: GP FOR COMMERCIAL TAX

Counsel for the Respondent Nos.2 & 3: GP FOR INDUSTRIES & COMMERCE

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 16.02.2005, passed by the 1st respondent- The Commercial Tax Officer, Visakhapatnam.

2. The contention of the learned counsel for the petitioner is that in the order passed by the 1st respondent, dated 16.02.2005, the tax was imposed and was directed to

pay the same within a period of seven days, but in the later order, dated 02.03.2005, it is stated that the order, dated 16.02.2005, should be treated as show-cause notice, and therefore, the order, dated 16.02.2005, is illegal, arbitrary and contrary to law.

3. We have heard the learned Government Pleader also.

4. The order, dated 16.02.2005, was passed as a final order without there being any show-cause notice. Therefore, it cannot be said to be the show-cause notice as observed by the 1st respondent in proceedings, dated 02.03.2005.

5. Under those circumstances, the Writ Petition is disposed of with a direction that the notice, dated 16.02.2005, shall be treated as show-cause notice to which the petitioner shall submit his explanation within a period of two weeks. On submission of such explanation, the authorities should pass appropriate orders in accordance with rules.

6. Writ petition is ordered accordingly. No costs.

_____

G. BIKSHAPATHY, J

_____

P.S. NARAYANA, J

Date: 25.03.2005

ES

To

1 The Commercial Tax Officer, Gajuwaka Circle, Visakhapatnam.
2 The Commissioner of Industries, Government of Andhra Pradesh, Chirag Ali Lane, Abids, Hyderabad.
3 The General Manager, District Industries Centre,
Industrial Estate, Visakhapatnam.

4 2 CCs to the G.P. for Commercial Tax, High Court of A.P., Hyderabad (OUT)

5 2 CCs to the G.P. for Industries & Commerce, High Court of A.P., Hyderabad (OUT)

6 2 CD copies

7 1 CC to MR.BHASKAR REDDY VEMIREDDY (OUT)